

**[DISCUSSION DRAFT]**

SEPTEMBER 16, 2003

1 **TITLE \_\_\_\_—NUCLEAR MATTERS**  
2 **Subtitle \_\_\_\_—Price-Anderson Act**  
3 **Amendments**

4 **SEC. \_\_\_\_1. SHORT TITLE.**

5 This subtitle may be cited as the “Price-Anderson  
6 Amendments Act of 2003”.

7 **SEC. \_\_\_\_2. EXTENSION OF INDEMNIFICATION AUTHORITY.**

8 (a) INDEMNIFICATION OF NUCLEAR REGULATORY  
9 COMMISSION LICENSEES.—Section 170 c. of the Atomic  
10 Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

11 (1) in the subsection heading, by striking “LI-  
12 CENSES” and inserting “LICENSEES”; and

13 (2) by striking “December 31, 2003” each  
14 place it appears and inserting “December 31,  
15 2023”.

16 (b) INDEMNIFICATION OF DEPARTMENT OF ENERGY  
17 CONTRACTORS.—Section 170 d.(1)(A) of the Atomic En-  
18 ergy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended  
19 by striking “December 31, 2004” and inserting “Decem-  
20 ber 31, 2023”.

21 (c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL  
22 INSTITUTIONS.—Section 170 k. of the Atomic Energy Act  
23 of 1954 (42 U.S.C. 2210(k)) is amended by striking “Au-

1 gust 1, 2002” each place it appears and inserting “Decem-  
2 ber 31, 2023”.

3 **SEC. \_\_\_\_ 3. MAXIMUM ASSESSMENT.**

4 Section 170 of the Atomic Energy Act of 1954 (42  
5 U.S.C. 2210) is amended—

6 (1) in the second proviso of the third sentence  
7 of subsection b.(l)—

8 (A) by striking “\$63,000,000” and insert-  
9 ing “\$95,800,000”; and

10 (B) by striking “\$10,000,000 in any 1  
11 year” and inserting “\$15,000,000 in any 1 year  
12 (subject to adjustment for inflation under sub-  
13 section t.)”; and

14 (2) in subsection t.(1)—

15 (A) by inserting “total and annual” after  
16 “amount of the maximum”;

17 (B) by striking “the date of the enactment  
18 of the Price-Anderson Amendments Act of  
19 1988” and inserting “August 20, 2003”; and

20 (C) in subparagraph (A), by striking “such  
21 date of enactment” and inserting “August 20,  
22 2003”.

23 **SEC. \_\_\_\_ 4. DEPARTMENT OF ENERGY LIABILITY LIMIT.**

24 (a) INDEMNIFICATION OF DEPARTMENT OF ENERGY  
25 CONTRACTORS.—Section 170 d. of the Atomic Energy Act

1 of 1954 (42 U.S.C. 2210(d)) is amended by striking para-  
2 graph (2) and inserting the following:

3 “(2) In an agreement of indemnification entered into  
4 under paragraph (1), the Secretary—

5 “(A) may require the contractor to provide and  
6 maintain financial protection of such a type and in  
7 such amounts as the Secretary shall determine to be  
8 appropriate to cover public liability arising out of or  
9 in connection with the contractual activity; and

10 “(B) shall indemnify the persons indemnified  
11 against such liability above the amount of the finan-  
12 cial protection required, in the amount of  
13 \$10,000,000,000 (subject to adjustment for inflation  
14 under subsection t.), in the aggregate, for all per-  
15 sons indemnified in connection with the contract and  
16 for each nuclear incident, including such legal costs  
17 of the contractor as are approved by the Secretary.”.

18 (b) CONTRACT AMENDMENTS.—Section 170 d. of the  
19 Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is further  
20 amended by striking paragraph (3) and inserting the  
21 following—

22 “(3) All agreements of indemnification under which  
23 the Department of Energy (or its predecessor agencies)  
24 may be required to indemnify any person under this sec-  
25 tion shall be deemed to be amended, on the date of enact-

1 ment of the Price-Anderson Amendments Act of 2003, to  
2 reflect the amount of indemnity for public liability and any  
3 applicable financial protection required of the contractor  
4 under this subsection.”.

5 (c) LIABILITY LIMIT.—Section 170 e.(1)(B) of the  
6 Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is  
7 amended—

8 (1) by striking “the maximum amount of finan-  
9 cial protection required under subsection b. or”; and

10 (2) by striking “paragraph (3) of subsection d.,  
11 whichever amount is more” and inserting “para-  
12 graph (2) of subsection d.”.

13 **SEC. \_\_\_\_5. INCIDENTS OUTSIDE THE UNITED STATES.**

14 (a) AMOUNT OF INDEMNIFICATION.—Section 170  
15 d.(5) of the Atomic Energy Act of 1954 (42 U.S.C.  
16 2210(d)(5)) is amended by striking “\$100,000,000” and  
17 inserting “\$500,000,000”.

18 (b) LIABILITY LIMIT.—Section 170 e.(4) of the  
19 Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is  
20 amended by striking “\$100,000,000” and inserting  
21 “\$500,000,000”.

22 **SEC. \_\_\_\_6. REPORTS.**

23 Section 170 p. of the Atomic Energy Act of 1954 (42  
24 U.S.C. 2210(p)) is amended by striking “August 1, 1998”  
25 and inserting “December 31, 2019”.

1   **SEC. \_\_\_\_7. INFLATION ADJUSTMENT.**

2           Section 170 t. of the Atomic Energy Act of 1954 (42  
3   U.S.C. 2210(t)) is amended—

4           (1) by redesignating paragraph (2) as para-  
5           graph (3); and

6           (2) by inserting after paragraph (1) the fol-  
7           lowing:

8           “(2) The Secretary shall adjust the amount of indem-  
9           nification provided under an agreement of indemnification  
10          under subsection d. not less than once during each 5-year  
11          period following July 1, 2003, in accordance with the ag-  
12          gregate percentage change in the Consumer Price Index  
13          since—

14                  “(A) that date, in the case of the first adjust-  
15          ment under this paragraph; or

16                  “(B) the previous adjustment under this para-  
17          graph.”.

18   **SEC. \_\_\_\_8. TREATMENT OF MODULAR REACTORS.**

19          Section 170 b. of the Atomic Energy Act of 1954 (42  
20   U.S.C. 2210(b)) is amended by adding at the end the fol-  
21   lowing:

22          “(5)(A) For purposes of this section only, the Com-  
23          mission shall consider a combination of facilities described  
24          in subparagraph (B) to be a single facility having a rated  
25          capacity of 100,000 electrical kilowatts or more.

1 “(B) A combination of facilities referred to in sub-  
2 paragraph (A) is 2 or more facilities located at a single  
3 site, each of which has a rated capacity of 100,000 elec-  
4 trical kilowatts or more but not more than 300,000 elec-  
5 trical kilowatts, with a combined rated capacity of not  
6 more than 1,300,000 electrical kilowatts.”.

7 **SEC. \_\_\_\_9. APPLICABILITY.**

8 The amendments made by sections \_\_\_\_3, \_\_\_\_4,  
9 and \_\_\_\_5 do not apply to a nuclear incident that occurs  
10 before the date of the enactment of this Act.

11 **SEC. \_\_\_\_10. PROHIBITION ON ASSUMPTION BY UNITED**  
12 **STATES GOVERNMENT OF LIABILITY FOR**  
13 **CERTAIN FOREIGN ACCIDENTS.**

14 Section 170 of the Atomic Energy Act of 1954 (42  
15 U.S.C. 2210) is amended by adding at the end the fol-  
16 lowing new subsection:

17 “u. PROHIBITION ON ASSUMPTION OF LIABILITY FOR  
18 CERTAIN FOREIGN ACCIDENTS.—Notwithstanding this  
19 section or any other provision of law, no officer of the  
20 United States or of any department, agency, or instrumen-  
21 tality of the United States Government may enter into any  
22 contract or other arrangement, or into any amendment or  
23 modification of a contract or other arrangement, the pur-  
24 pose or effect of which would be to directly or indirectly  
25 impose liability on the United States Government, or any

1 department, agency, or instrumentality of the United  
2 States Government, or to otherwise directly or indirectly  
3 require an indemnity by the United States Government,  
4 for nuclear accidents occurring in connection with the de-  
5 sign, construction, or operation of a production facility or  
6 utilization facility in any country whose government has  
7 been identified by the Secretary of State as engaged in  
8 state sponsorship of terrorist activities (specifically includ-  
9 ing any country the government of which, as of September  
10 11, 2001, had been determined by the Secretary of State  
11 under section 620A(a) of the Foreign Assistance Act of  
12 1961 (22 U.S.C. 2371(a)), section 6(j)(1) of the Export  
13 Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)),  
14 or section 40(d) of the Arms Export Control Act (22  
15 U.S.C. 2780(d)) to have repeatedly provided support for  
16 acts of international terrorism).”.

17 **SEC. \_\_\_\_ 11. CIVIL PENALTIES.**

18 (a) REPEAL OF AUTOMATIC REMISSION.—Section  
19 234A b.(2) of the Atomic Energy Act of 1954 (42 U.S.C.  
20 2282a(b)(2)) is amended by striking the last sentence.

21 (b) LIMITATION FOR NOT-FOR-PROFIT INSTITU-  
22 TIONS.—Subsection d. of section 234A of the Atomic En-  
23 ergy Act of 1954 (42 U.S.C. 2282a(d)) is amended to read  
24 as follows:

1       “d.(1) Notwithstanding subsection a., in the case of  
2 any not-for-profit contractor, subcontractor, or supplier,  
3 the total amount of civil penalties paid under subsection  
4 a. may not exceed the total amount of fees paid within  
5 any one-year period (as determined by the Secretary)  
6 under the contract under which the violation occurs.

7       “(2) For purposes of this section, the term “not-for-  
8 profit” means that no part of the net earnings of the con-  
9 tractor, subcontractor, or supplier inures to the benefit of  
10 any natural person or for-profit artificial person.”.

11       (c) EFFECTIVE DATE.—The amendments made by  
12 this section shall not apply to any violation of the Atomic  
13 Energy Act of 1954 (42 U.S.C. 2011 et seq.) occurring  
14 under a contract entered into before the date of enactment  
15 of this section.

16 **[SEC.\_\_\_\_12. FINANCIAL ACCOUNTABILITY.**

17       (a) AMENDMENT.—Section 170 of the Atomic En-  
18 ergy Act of 1954 (42 U.S.C. 2210) is amended by adding  
19 at the end the following new subsection:

20       “v. FINANCIAL ACCOUNTABILITY.—(1) Notwith-  
21 standing subsection d., the Attorney General may bring  
22 an action in the appropriate United States district court  
23 to recover from a contractor of the Secretary (or subcon-  
24 tractor or supplier of such contractor) amounts paid by  
25 the Federal Government under an agreement of indem-



1 nification under subsection d. for public liability resulting  
2 from conduct that constitutes intentional misconduct of  
3 any corporate officer, manager, or superintendent of such  
4 contractor (or subcontractor or supplier of such con-  
5 tractor).

6 “(2) The Attorney General may recover under para-  
7 graph (1) an amount not to exceed the amount of the prof-  
8 it derived by the defendant from the contract.

9 “(3) No amount recovered from any contractor (or  
10 subcontractor or supplier of such contractor) under para-  
11 graph (1) may be reimbursed directly or indirectly by the  
12 Department of Energy.

13 “(4) Paragraph (1) shall not apply to any nonprofit  
14 entity conducting activities under contract for the Sec-  
15 retary.

16 “(5) No waiver of a defense required under this sec-  
17 tion shall prevent a defendant from asserting such defense  
18 in an action brought under this subsection.

19 “(6) The Secretary shall, by rule, define the terms  
20 ‘profit’ and ‘nonprofit entity’ for purposes of this sub-  
21 section. Such rulemaking shall be completed not later than  
22 180 days after the date of the enactment of this sub-  
23 section.”.

24 (b) EFFECTIVE DATE.—The amendment made by  
25 this section shall not apply to any agreement of indem-

1 nification entered into under section 170 d. of the Atomic  
2 Energy Act of 1954 (42 U.S.C. 2210(d)) before the date  
3 of enactment of this Act.】

4       **Subtitle \_\_\_\_\_—General Nuclear**  
5                                   **Matters**

6       **SEC. \_\_\_\_21. LICENSES.**

7           Section 103 c. of the Atomic Energy Act of 1954 (42  
8 U.S.C. 2133(c)) is amended by inserting “from the au-  
9 thorization to commence operations” after “forty years”.

10       **SEC. \_\_\_\_22. NRC TRAINING PROGRAM.**

11           (a) IN GENERAL.—In order to maintain the human  
12 resource investment and infrastructure of the United  
13 States in the nuclear sciences, health physics, and engi-  
14 neering fields, in accordance with the statutory authorities  
15 of the Commission relating to the civilian nuclear energy  
16 program, the Nuclear Regulatory Commission shall carry  
17 out a training and fellowship program to address short-  
18 ages of individuals with critical nuclear safety regulatory  
19 skills.

20           (b) AUTHORIZATION OF APPROPRIATIONS.—

21               (1) IN GENERAL.—There are authorized to be  
22 appropriated to carry out this section \$1,000,000 for  
23 each of fiscal years 2004 through 2008.

1           (2) AVAILABILITY.—Funds made available  
2       under paragraph (1) shall remain available until ex-  
3       pended.

4 **SEC. \_\_\_\_23. COST RECOVERY FROM GOVERNMENT AGEN-**  
5 **CIES.**

6       Section 161 w. of the Atomic Energy Act of 1954  
7 (42 U.S.C. 2201(w)) is amended—

8           (1) by striking “for or is issued” and all that  
9       follows through “1702” and inserting “to the Com-  
10      mission for, or is issued by the Commission, a li-  
11      cense or certificate”;

12          (2) by striking “483a” and inserting “9701”;  
13      and

14          (3) by striking “, of applicants for, or holders  
15      of, such licenses or certificates”.

16 **SEC. \_\_\_\_24. ELIMINATION OF PENSION OFFSET.**

17       Section 161 of the Atomic Energy Act of 1954 (42  
18 U.S.C. 2201) is amended by adding at the end the fol-  
19 lowing:

20       “y. Exempt from the application of sections 8344 and  
21 8468 of title 5, United States Code, an annuitant who was  
22 formerly an employee of the Commission who is hired by  
23 the Commission as a consultant, if the Commission finds  
24 that the annuitant has a skill that is critical to the per-  
25 formance of the duties of the Commission.”.

1   **SEC. \_\_\_\_ 25. ANTITRUST REVIEW.**

2           (a) IN GENERAL.—Section 105 of the Atomic Energy  
3 Act of 1954 (42 U.S.C. 2135) is amended by adding at  
4 the end the following:

5           “d. ANTITRUST LAWS.—

6                   “(1) NOTIFICATION.—Except as provided in  
7 paragraph (4), when the Commission proposes to  
8 issue a license under section 103 or 104 b., the  
9 Commission shall notify the Attorney General of the  
10 proposed license and the proposed terms and condi-  
11 tions of the license.

12                   “(2) ACTION BY THE ATTORNEY GENERAL.—  
13 Within a reasonable time (but not more than 90  
14 days) after receiving notification under paragraph  
15 (1), the Attorney General shall submit to the Com-  
16 mission and publish in the Federal Register a deter-  
17 mination whether, insofar as the Attorney General is  
18 able to determine, the proposed license would tend  
19 to create or maintain a situation inconsistent with  
20 the antitrust laws.

21                   “(3) INFORMATION.—On the request of the At-  
22 torney General, the Commission shall furnish or  
23 cause to be furnished such information as the Attor-  
24 ney General determines to be appropriate or nec-  
25 essary to enable the Attorney General to make the  
26 determination under paragraph (2).

1           “(4) APPLICABILITY.—This subsection shall not  
2       apply to such classes or type of licenses as the Com-  
3       mission, with the approval of the Attorney General,  
4       determines would not significantly affect the activi-  
5       ties of a licensee under the antitrust laws.”.

6       (b) CONFORMING AMENDMENT.—Section 105 c. of  
7       the Atomic Energy Act of 1954 (42 U.S.C. 2135(c)) is  
8       amended by adding at the end the following:

9       “(9) APPLICABILITY.—This subsection does not  
10      apply to an application for a license to construct or oper-  
11      ate a utilization facility under section 103 or 104 b. that  
12      is filed on or after the date of enactment of subsection  
13      d.”.

14   **SEC. \_\_\_\_ 26. DECOMMISSIONING.**

15       (a) AUTHORITY OVER FORMER LICENSEES FOR DE-  
16      COMMISSIONING FUNDING.—Section 161 i. of the Atomic  
17      Energy Act of 1954 (42 U.S.C. 2201(i)) is amended—

18           (1) by striking “and (3)” and inserting “(3)”;

19           and

20           (2) by inserting before the semicolon at the end  
21      the following: “, and (4) to ensure that sufficient  
22      funds will be available for the decommissioning of  
23      any production or utilization facility licensed under  
24      section 103 or 104 b., including standards and re-  
25      strictions governing the control, maintenance, use,

1       and disbursement by any former licensee under this  
2       Act that has control over any fund for the decom-  
3       missioning of the facility.”.

4       (b) TREATMENT OF NUCLEAR REACTOR FINANCIAL  
5 OBLIGATIONS.—Section 523 of title 11, United States  
6 Code, is amended by adding at the end the following:

7       “(f) TREATMENT OF NUCLEAR REACTOR FINANCIAL  
8 OBLIGATIONS.—Notwithstanding any other provision of  
9 this title—

10           “(1) any funds or other assets held by a li-  
11       censee or former licensee of the Nuclear Regulatory  
12       Commission, or by any other person, to satisfy the  
13       responsibility of the licensee, former licensee, or any  
14       other person to comply with a regulation or order of  
15       the Nuclear Regulatory Commission governing the  
16       decontamination and decommissioning of a nuclear  
17       power reactor licensed under section 103 or 104 b.  
18       of the Atomic Energy Act of 1954 (42 U.S.C. 2133,  
19       2134(b)) shall not be used to satisfy the claim of  
20       any creditor in any proceeding under this title, other  
21       than a claim resulting from an activity undertaken  
22       to satisfy that responsibility, until the decontamina-  
23       tion and decommissioning of the nuclear power reac-  
24       tor is completed to the satisfaction of the Nuclear  
25       Regulatory Commission;

1           “(2) obligations of licensees, former licensees,  
2           or any other person to use funds or other assets to  
3           satisfy a responsibility described in paragraph (1)  
4           may not be rejected, avoided, or discharged in any  
5           proceeding under this title or in any liquidation, re-  
6           organization, receivership, or other insolvency pro-  
7           ceeding under Federal or State law; and

8           “(3) private insurance premiums and standard  
9           deferred premiums held and maintained in accord-  
10          ance with section 170 b. of the Atomic Energy Act  
11          of 1954 (42 U.S.C. 2210(b)) shall not be used to  
12          satisfy the claim of any creditor in any proceeding  
13          under this title, until the indemnification agreement  
14          executed in accordance with section 170 c. of that  
15          Act (42 U.S.C. 2210(c)) is terminated.”.

16 **SEC. \_\_\_\_27. LIMITATION ON LEGAL FEE REIMBURSEMENT.**

17          The Department of Energy shall not, except as re-  
18          quired under a contract entered into before the date of  
19          enactment of this Act, reimburse any contractor or sub-  
20          contractor of the Department for any legal fees or ex-  
21          penses incurred with respect to a complaint subsequent  
22          to—

23                 (1) an adverse determination on the merits with  
24          respect to such complaint against the contractor or  
25          subcontractor by the Director of the Department of

1 Energy's Office of Hearings and Appeals pursuant  
2 to part 708 of title 10, Code of Federal Regulations,  
3 or by a Department of Labor Administrative Law  
4 Judge pursuant to section 211 of the Energy Reor-  
5 ganization Act of 1974 (42 U.S.C. 5851); or  
6 (2) an adverse final judgment by any State or  
7 Federal court with respect to such complaint against  
8 the contractor or subcontractor for wrongful termi-  
9 nation or retaliation due to the making of disclo-  
10 sures protected under chapter 12 of title 5, United  
11 States Code, section 211 of the Department of En-  
12 ergy Reorganization Act of 1974 (42 U.S.C. 5851),  
13 or any comparable State law,  
14 unless the adverse determination or final judgment is re-  
15 versed upon further administrative or judicial review.

16 **SEC. \_\_\_\_28. DECOMMISSIONING PILOT PROGRAM.**

17 (a) PILOT PROGRAM.—The Secretary shall establish  
18 a decommissioning pilot program to decommission and de-  
19 contaminate the sodium-cooled fast breeder experimental  
20 test-site reactor located in northwest Arkansas in accord-  
21 ance with the decommissioning activities contained in the  
22 August 31, 1998, Department of Energy report on the  
23 reactor.



1 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated to carry out this section  
3 \$16,000,000.

4 **SEC. \_\_\_\_29. PLAN FOR WESTERN NEW YORK SERVICE CEN-**  
5 **TER.**

6 Not later than December 31, 2004, the Secretary of  
7 Energy shall transmit to the Congress a plan for the  
8 transfer to the Secretary of title to, and full responsibility  
9 for the possession, transportation, disposal, stewardship,  
10 maintenance, and monitoring of, all facilities, property,  
11 and radioactive waste at the Western New York Service  
12 Center in West Valley, New York. The Secretary shall con-  
13 sult with the President of the New York State Energy Re-  
14 search and Development Authority in developing such  
15 plan.

16 **SEC. \_\_\_\_30. STUDY TO DETERMINE FEASIBILITY OF DEVEL-**  
17 **OPING COMMERCIAL NUCLEAR ENERGY PRO-**  
18 **DUCTION FACILITIES AT EXISTING DEPART-**  
19 **MENT OF ENERGY SITES.**

20 (a) IN GENERAL.—The Secretary of Energy shall  
21 conduct a study to determine the feasibility of developing  
22 commercial nuclear energy production facilities at Depart-  
23 ment of Energy sites in existence on the date of the enact-  
24 ment of this Act, including—

1           (1) options for how and where nuclear power  
2           plants can be developed on existing Department of  
3           Energy sites;

4           (2) estimates on cost savings to the Federal  
5           Government that may be realized by locating new  
6           nuclear power plants on Federal sites;

7           (3) the feasibility of incorporating new tech-  
8           nology into nuclear power plants located on Federal  
9           sites;

10          (4) potential improvements in the licensing and  
11          safety oversight procedures of nuclear power plants  
12          located on Federal sites;

13          (5) an assessment of the effects of nuclear  
14          waste management policies and projects as a result  
15          of locating nuclear power plants located on Federal  
16          sites; and

17          (6) any other factors that the Secretary believes  
18          would be relevant in making the determination.

19          (b) REPORT.—Not later than 365 days after the date  
20          of the enactment of this Act, the Secretary shall submit  
21          to Congress a report describing the results of the study  
22          under subsection (a).

1   **SEC. \_\_\_\_ 31. URANIUM SALES.**

2           (a) RESTRICTIONS ON INVENTORY SALES.—Section  
3   3112(d) of the USEC Privatization Act (42 U.S.C.  
4   2297h–10(d)) is amended to read as follows:

5           “(d) INVENTORY SALES.—(1) In addition to the  
6   transfers and sales authorized under subsections (b), (c),  
7   and (e), the United States Government may transfer or  
8   sell uranium subject to paragraph (2).

9           “(2) Except as provided in subsections (b), (c), and  
10   (e), no sale or transfer of uranium shall be made under  
11   this subsection by the United States Government unless—

12           “(A) the President determines that the material  
13   is not necessary for national security needs;

14           “(B) the price paid to the appropriate Federal  
15   agency, if the transaction is a sale, will not be less  
16   than the fair market value of the material;

17           “(C) the sale or transfer to end users is made  
18   pursuant to a contract of at least 3 years’ duration;  
19   and

20           “(D) the Secretary determines that the sale of  
21   the material will not have an adverse material im-  
22   pact on the domestic uranium mining, conversion, or  
23   enrichment industry, taking into account the sales of  
24   uranium under the Russian HEU Agreement and  
25   the Suspension Agreement.

1       “(3) The United States Government shall not make  
2 any transfer or sale of uranium in any form under this  
3 subsection that would cause the total amount of uranium  
4 transferred or sold pursuant to this subsection that is de-  
5 livered for consumption by commercial nuclear power end  
6 users to exceed—

7           “(A) 3,000,000 pounds of U3O8 equivalent in  
8 fiscal year 2004, 2005, 2006, 2007, 2008, or 2009;

9           “(B) 5,000,000 pounds of U3O8 equivalent in  
10 fiscal year 2010 or 2011;

11           “(C) 7,000,000 pounds of U3O8 equivalent in  
12 fiscal year 2012; and

13           “(D) 10,000,000 pounds of U3O8 equivalent in  
14 fiscal year 2013 or any fiscal year thereafter.

15       “(4) For the purposes of this subsection, the recovery  
16 of uranium from uranium bearing materials transferred  
17 or sold by the United States Government to the domestic  
18 uranium industry shall be the preferred method of making  
19 uranium available. The recovered uranium shall be count-  
20 ed against the annual maximum deliveries set for in this  
21 section, when such uranium is sold to end users.”.

22       (b) GOVERNMENT TRANSFERS.—Section 3112(e) of  
23 the USEC Privatization Act (42 U.S.C. 2297h–10) is fur-  
24 ther amended—

1           (1) in paragraph (2), by striking “or” at the  
2       end;

3           (2) in paragraph (3), by striking the period at  
4       the end and inserting a semicolon; and

5           (3) by adding at the end the following:

6           “(4) to the Department of Energy research re-  
7       actor sales program;

8           “(5) notwithstanding subsection (b)(2), in  
9       amounts sufficient to fulfill the Department of Ener-  
10      gy’s commitments under Article 4(B) of the Agree-  
11      ment between the Department and the Corporation  
12      dated June 17, 2002;

13          “(6) for emergency purposes in the event of a  
14      disruption in supply to end users in the United  
15      States; or

16          “(7) for use in a research reactor in the United  
17      States with nonstandard fuel requirements.”.

18      (c) SERVICES.—Section 3112 of the USEC Privatiza-  
19      tion Act (42 U.S.C. 2297h–10) is further amended by  
20      adding at the end the following new subsection:

21      “(g) SERVICES.—Notwithstanding any other provi-  
22      sion of this section, if the Secretary determines that the  
23      Corporation has failed, or may fail, to perform any obliga-  
24      tion under the Agreement between the Department of En-  
25      ergy and the Corporation dated June 17, 2002, and as

1 amended thereafter, which failure could result in termi-  
2 nation of the Agreement, the Secretary shall notify the  
3 Committee on Energy and Commerce of the House of  
4 Representatives and the Committee on Energy and Nat-  
5 ural Resources of the Senate, in such a manner that af-  
6 fords the Committees an opportunity to comment, prior  
7 to a determination by the Secretary whether termination,  
8 waiver, or modification of the Agreement is required. The  
9 Secretary is authorized to take such action as he deter-  
10 mines necessary under the Agreement to terminate, waive,  
11 or modify provisions of the Agreement to achieve its pur-  
12 poses.”.

13 (d) REPORT.—Within 3 years after the date of enact-  
14 ment of this Act, the Secretary shall report to the Con-  
15 gress on the implementation of this section. The report  
16 shall include a discussion of available excess uranium in-  
17 ventories, all sales or transfers made by the United States  
18 Government, the impact of such sales or transfers on the  
19 domestic uranium industry, the spot market uranium  
20 price, and the national security interests of the United  
21 States, and any steps taken to remediate any adverse im-  
22 pacts of such sales or transfers.

1   **SEC. \_\_\_\_32. COOPERATIVE RESEARCH AND DEVELOPMENT**  
2                   **AND SPECIAL DEMONSTRATION PROJECTS**  
3                   **FOR THE URANIUM MINING INDUSTRY.**

4       (a) **AUTHORIZATION OF APPROPRIATIONS.**—There  
5 are authorized to be appropriated to the Secretary of En-  
6 ergy \$10,000,000 for each of fiscal years 2004, 2005, and  
7 2006 for—

8           (1) cooperative, cost-shared agreements between  
9 the Department of Energy and domestic uranium  
10 producers to identify, test, and develop improved in  
11 situ leaching mining technologies, including low-cost  
12 environmental restoration technologies that may be  
13 applied to sites after completion of in situ leaching  
14 operations; and

15          (2) funding for competitively selected dem-  
16 onstration projects with domestic uranium producers  
17 relating to—

18           (A) enhanced production with minimal en-  
19 vironmental impacts;

20           (B) restoration of well fields; and

21           (C) decommissioning and decontamination  
22 activities.

23       (b) **DOMESTIC URANIUM PRODUCER.**—For purposes  
24 of this section, the term “domestic uranium producer” has  
25 the meaning given that term in section 1018(4) of the En-  
26 ergy Policy Act of 1992 (42 U.S.C. 2296b–7(4)), except

1 that the term shall not include any producer that has not  
2 produced uranium from domestic reserves on or after July  
3 30, 1998.

4 (c) LIMITATION.—No activities funded under this  
5 section may be carried out in the State of New Mexico.

6 **SEC. \_\_\_\_ 33. WHISTLEBLOWER PROTECTION.**

7 (a) DEFINITION OF EMPLOYER.—Section 211(a)(2)  
8 of the Energy Reorganization Act of 1974 (42 U.S.C.  
9 5851(a)(2)) is amended—

10 (1) in subparagraph (C), by striking “and” at  
11 the end;

12 (2) in subparagraph (D), by striking the period  
13 at the end and inserting “; and” and

14 (3) by adding at the end the following:

15 “(E) a contractor or subcontractor of the  
16 Commission.”.

17 (b) DE NOVO REVIEW.—Subsection (b) of such sec-  
18 tion 211 is amended by adding at the end the following  
19 new paragraph:

20 “(4) If the Secretary has not issued a final de-  
21 cision within 540 days after the filing of a complaint  
22 under paragraph (1), and there is no showing that  
23 such delay is due to the bad faith of the claimant,  
24 the claimant may bring an action at law or equity  
25 for de novo review in the appropriate district court



1 of the United States, which shall have jurisdiction  
2 over such an action without regard to the amount in  
3 controversy.”.

4 **[SEC. \_\_\_\_34. MEDICAL ISOTOPE PRODUCTION.**

5 Section 134 of the Atomic Energy Act of 1954 (42  
6 U.S.C. 2160d) is amended—

7 (1) by redesignating subsection b. as subsection  
8 f.;

9 (2) by inserting after subsection a. the fol-  
10 lowing:

11 “b. The Commission may issue a license authorizing  
12 the export (including shipment to and use at intermediate  
13 and ultimate consignees specified in the license) to a Re-  
14 cipient Country of highly enriched uranium for medical  
15 isotope production if, in addition to any other require-  
16 ments of this Act, the Commission determines that—

17 “(1) a Recipient Country that supplies an as-  
18 surance letter to the United States Government in  
19 connection with the Commission’s consideration of  
20 the export license application has informed the  
21 United States Government that any intermediate  
22 consignees and the ultimate consignee specified in  
23 the application are required to use such highly en-  
24 riched uranium solely to produce medical isotopes;  
25 and

1           “(2) the highly enriched uranium for medical  
2           isotope production will be irradiated only in a reac-  
3           tor in a Recipient Country that—

4                   “(A) uses an alternative nuclear reactor  
5                   fuel; or

6                   “(B) is the subject of an agreement with  
7                   the United States Government to convert to an  
8                   alternative nuclear reactor fuel when such fuel  
9                   can be used in that reactor.

10          “c. Applications to the Commission for licenses au-  
11          thorizing the export to a Recipient Country of highly en-  
12          riched uranium for medical isotope production shall be  
13          subject to subsection b., and subsection a. shall not be ap-  
14          plicable to such exports.

15          “d. The Commission is authorized to specify, by rule-  
16          making or decision in connection with an export license  
17          application, that a country other than a Recipient Country  
18          may receive exports of highly enriched uranium for med-  
19          ical isotope production in accordance with the same cri-  
20          teria established by subsection b. for exports to a Reci-  
21          ent Country, upon the Commission’s finding that such ad-  
22          ditional country is a party to the Treaty on the Non-  
23          proliferation of Nuclear Weapons and the Convention on  
24          the Physical Protection of Nuclear Material and will re-  
25          ceive such highly enriched uranium pursuant to an agree-

1 ment with the United States concerning peaceful uses of  
2 nuclear energy.

3 “e. The Commission shall review the adequacy of  
4 physical protection requirements that are currently appli-  
5 cable to the transportation of highly enriched uranium for  
6 medical isotope production. If the Commission determines  
7 that additional physical protection measures are nec-  
8 essary, including any limits that the Commission finds are  
9 necessary on the quantity of highly enriched uranium con-  
10 tained in a single shipment for medical isotope production,  
11 the Commission shall impose such requirements, as license  
12 conditions or through other appropriate means.”; and

13 (3) in subsection f., as so redesignated by para-  
14 graph (1) of this section—

15 (A) by striking “and” at the end of para-  
16 graph (2);

17 (B) by striking the period at the end of  
18 paragraph (3)(B) and inserting a semicolon;  
19 and

20 (C) by adding at the end the following:

21 “(4) the term ‘highly enriched uranium for  
22 medical isotope production’ means highly enriched  
23 uranium contained in, or for use in, targets to be ir-  
24 radiated for the sole purpose of producing medical  
25 isotopes;

1           “(5) the term ‘medical isotopes’ means radio-  
2       active isotopes, including Molybdenum 99, Iodine  
3       131, and Xenon 133, that are used to produce radio-  
4       pharmaceuticals for diagnostic or therapeutic proce-  
5       dures on patients, or in connection with research  
6       and development of radiopharmaceuticals;

7           “(6) the term ‘radiopharmaceuticals’ means ra-  
8       dioactive isotopes containing byproduct material  
9       combined with chemical or biological material that  
10      are designed to accumulate temporarily in a part of  
11      the body, for therapeutic purposes or for enabling  
12      the production of a useful image of the appropriate  
13      body organ or function for use in diagnosis of med-  
14      ical conditions; and

15          “(7) the term ‘Recipient Country’ means Can-  
16      ada, Belgium, France, Germany, and the Nether-  
17      lands.”.]

18 **SEC. \_\_\_\_ 35. FERNALD BYPRODUCT MATERIAL.**

19       Notwithstanding any other law, the material in the  
20      concrete silos at the Fernald uranium processing facility  
21      managed on the date of enactment of this Act by the De-  
22      partment of Energy shall be considered byproduct mate-  
23      rial (as defined by section 11 e.(2) of the Atomic Energy  
24      Act of 1954 (42 U.S.C. 2014(e)(2))). The Department of  
25      Energy may dispose of the material in a facility regulated

1 by the Nuclear Regulatory Commission or by an Agree-  
2 ment State. If the Department of Energy disposes of the  
3 material in such a facility, the Nuclear Regulatory Com-  
4 mission or the Agreement State shall regulate the material  
5 as byproduct material under that Act. This material shall  
6 remain subject to the jurisdiction of the Department of  
7 Energy until it is received at a commercial, Nuclear Regu-  
8 latory Commission-licensed, or Agreement State-licensed  
9 facility, at which time the material shall be subject to the  
10 health and safety requirements of the Nuclear Regulatory  
11 Commission or the Agreement State with jurisdiction over  
12 the disposal site.

13 **SEC. \_\_\_\_36. REPORT ON GREATER THAN CLASS C RADIO-**  
14 **ACTIVE WASTE.**

15 Not later than 1 year after the date of enactment  
16 of this Act, the Secretary of Energy shall submit to  
17 Congress—

18 (1) a report on steps that have been and are  
19 being taken to fulfill his responsibility under section  
20 3(b)(1)(D) of the Low-Level Radioactive Waste Pol-  
21 icy Act (42 U.S.C. 2021c(b)(1)(D) for the disposal  
22 of low-level radioactive waste with concentrations of  
23 radionuclides that exceed the limits established by  
24 the Nuclear Regulatory Commission for class C ra-

1        radioactive waste (referred to in this section as  
2        “GTCC waste”);

3            (2) a plan to ensure the continued recovery and  
4        the safe and secure storage of GTCC wastes until a  
5        permanent disposal facility is available; and

6            (3) a proposal for the development of a perma-  
7        nent disposal facility for GTCC wastes (including a  
8        cost estimate and timetable for development of such  
9        a facility, and recommendations for additional legis-  
10       lation, if needed).

11 **SEC. \_\_\_\_ 37. PROHIBITION ON NUCLEAR EXPORTS TO COUN-**  
12 **TRIES THAT SPONSOR TERRORISM.**

13        (a) IN GENERAL.—Section 129 of the Atomic Energy  
14 Act of 1954 (42 U.S.C. 2158) is amended—

15            (1) by inserting “a.” before “No nuclear mate-  
16        rials and equipment”; and

17            (2) by adding at the end the following new sub-  
18        section:

19        “b.(1) Notwithstanding any other provision of law,  
20 including specifically section 121 of this Act, and except  
21 as provided in paragraphs (2), (3), and (4), no nuclear  
22 materials and equipment or sensitive nuclear technology,  
23 including items and assistance authorized by section 57  
24 b. of this Act and regulated under part 810 of title 10,  
25 Code of Federal Regulations, and nuclear-related items on

1 the Commerce Control List, shall be exported or reex-  
2 ported, or transferred or retransferred whether directly or  
3 indirectly, and no Federal agency shall issue any license,  
4 approval, or authorization for the export or reexport, or  
5 transfer, or retransfer, whether directly or indirectly, of  
6 these items or assistance (as defined in this paragraph)  
7 to any country whose government has been identified by  
8 the Secretary of State as engaged in state sponsorship of  
9 terrorist activities (specifically including any country the  
10 government of which has been determined by the Sec-  
11 retary of State under section 620A(a) of the Foreign As-  
12 sistance Act of 1961 (22 U.S.C. 2371(a)), section 6(j)(1)  
13 of the Export Administration Act of 1979 (50 U.S.C. App.  
14 2405(j)(1)), or section 40(d) of the Arms Export Control  
15 Act (22 U.S.C. 2780(d)) to have repeatedly provided sup-  
16 port for acts of international terrorism).

17 “(2) This subsection shall not apply to Iraq.

18 “(3) This subsection shall not apply to exports, reex-  
19 ports, transfers, or retransfers of radiation monitoring  
20 technologies, surveillance equipment, seals, cameras, tam-  
21 per-indication devices, nuclear detectors, monitoring sys-  
22 tems, or equipment necessary to safely store, transport,  
23 or remove hazardous materials, whether such items, serv-  
24 ices, or information are regulated by the Department of

1 Energy, the Department of Commerce, or the Nuclear  
2 Regulatory Commission.

3 “(4) The President may waive the application of  
4 paragraph (1) to a country if the President determines  
5 and certifies to Congress that the waiver will not result  
6 in any increased risk that the country receiving the waiver  
7 will acquire nuclear weapons, nuclear reactors, or any ma-  
8 terials or components of nuclear weapons and—

9 “(A) the government of such country has not  
10 within the preceding 12-month period willfully aided  
11 or abetted the international proliferation of nuclear  
12 explosive devices to individuals or groups or willfully  
13 aided and abetted an individual or groups in acquir-  
14 ing unsafeguarded nuclear materials;

15 “(B) in the judgment of the President, the gov-  
16 ernment of such country has provided adequate, ver-  
17 ifiable assurances that it will cease its support for  
18 acts of international terrorism;

19 “(C) the waiver of that paragraph is in the vital  
20 national security interest of the United States; or

21 “(D) such a waiver is essential to prevent or re-  
22 spond to a serious radiological hazard in the country  
23 receiving the waiver that may or does threaten pub-  
24 lic health and safety.”.



1 (b) APPLICABILITY TO EXPORTS APPROVED FOR  
2 TRANSFER BUT NOT TRANSFERRED.—Subsection b. of  
3 section 129 of Atomic Energy Act of 1954, as added by  
4 subsection (a) of this section, shall apply with respect to  
5 exports that have been approved for transfer as of the date  
6 of the enactment of this Act but have not yet been trans-  
7 ferred as of that date.

8 **[Subtitle \_\_\_\_\_—Advanced Reactor**  
9 **Hydrogen Cogeneration Project**

10 **SEC. \_\_\_\_41. PROJECT ESTABLISHMENT.**

11 The Secretary of Energy shall establish an Advanced  
12 Reactor Hydrogen Cogeneration Project (in this subtitle  
13 referred to as the “Project”).

14 **SEC. \_\_\_\_42. PROJECT DEFINITION.**

15 The Project shall include research, development, de-  
16 sign, construction, and operation activities with respect to  
17 an advanced, next-generation, nuclear energy system suit-  
18 able for enabling further research and development on ad-  
19 vanced reactor technologies and alternative approaches for  
20 reactor-based generation of hydrogen. The Project shall  
21 be designed so as to enable research and development on  
22 an advanced reactor of the type selected and on alternative  
23 approaches for reactor-based production of hydrogen. The  
24 Project shall be designed to enhance safety features, re-  
25 duce waste production, enhance thermal efficiencies, in-

1 crease proliferation resistance, and have the potential for  
2 improved economics and physical security in reactor siting.

3 **SEC. \_\_\_\_ 43. PROJECT MANAGEMENT.**

4 (a) MANAGEMENT.—The Project shall be managed  
5 within the Department of Energy by the Office of Nuclear  
6 Energy, Science and Technology.

7 (b) LEAD LABORATORY.—The lead laboratory for the  
8 Project shall be the Idaho National Engineering and Envi-  
9 ronmental Laboratory.

10 (c) STEERING COMMITTEE.—The Secretary shall es-  
11 tablish a national steering committee with membership  
12 from the national laboratories, universities, and industry  
13 to provide advice to the Secretary and the Director of the  
14 Office of Nuclear Energy, Science and Technology on  
15 technical and program management aspects of the Project.

16 (d) COLLABORATION.—Project activities shall, to the  
17 extent practicable, be conducted at the Idaho National En-  
18 gineering and Environmental Laboratory, other national  
19 laboratories, universities, domestic industry, and inter-  
20 national partners.

21 **SEC. \_\_\_\_ 44. PROJECT REQUIREMENTS.**

22 (a) FEASIBILITY OF ALTERNATIVE APPROACHES.—  
23 The Project shall be designed to explore technical, environ-  
24 mental, and economic feasibility of alternative approaches  
25 for reactor-based hydrogen production.

1 (b) PRIMARY CONTRACTOR.—The primary contractor  
2 selected for implementing the Project shall be a company  
3 incorporated in the United States with majority ownership  
4 by United States nationals.

5 (c) INTERNATIONAL COLLABORATION.—(1) The Sec-  
6 retary shall seek international cooperation, participation,  
7 and financial contribution in the Project.

8 (2) In carrying out the Project, the Secretary may  
9 contract for assistance from specialists or facilities from  
10 member countries of the Generation IV International  
11 Forum, the Russian Federation, or other international  
12 partners where such specialists or facilities provide access  
13 to cost-effective and relevant skills or test capabilities.

14 (3) International activities shall be coordinated with  
15 the Generation IV International Forum.

16 (4) The Secretary may coordinate the Project with  
17 the Generation IV Nuclear Energy Systems Program.

18 (d) PARTNERSHIPS.—The Secretary shall establish  
19 cost-shared partnerships with domestic industry or inter-  
20 national participants for the research, development, de-  
21 sign, construction, and operation activities of the Project.

22 (e) COMPETITION.—The Secretary may fund up to  
23 two teams for up to one year to develop detailed proposals  
24 for competitive evaluation and selection of a single pro-  
25 posal and concept for further progress. The Secretary

1 shall define the format of the competitive evaluation of  
2 proposals.

3 (f) USE OF FACILITIES.—Utilization of domestic uni-  
4 versity-based facilities shall be encouraged to provide edu-  
5 cational opportunities for student development.

6 (g) ROLE OF NUCLEAR REGULATORY COMMIS-  
7 SION.—The Secretary shall seek active participation of the  
8 Nuclear Regulatory Commission throughout the Project to  
9 develop risk-based criteria for any future commercial de-  
10 velopment of a similar reactor architecture.

11 (h) REPORT TO CONGRESS.—Not later than Sep-  
12 tember 30, 2006, the Secretary shall provide a report to  
13 Congress which shall contain—

14 (1) a recommended reactor design to provide  
15 initial testing of either hydrogen production or elec-  
16 tricity generation by 2010, with a comprehensive  
17 plan for reactor construction, a site recommendation  
18 for reactor construction at a Department of Energy  
19 site, and a detailed cost and schedule estimate;

20 (2) a recommendation on whether the require-  
21 ments in Department of Energy Order 413.3 should  
22 be waived in order to meet construction timelines;

23 (3) a recommendation on whether the Depart-  
24 ment of Energy should be externally regulated by

1 the Nuclear Regulatory Commission for reactor con-  
2 struction and operation; and

3 (4) recommendations for Project design to re-  
4 tain United States leadership while maximizing cost  
5 sharing opportunities and minimizing Federal fund-  
6 ing responsibilities.

7 **SEC. \_\_\_\_45. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) IN GENERAL.—There are authorized to be appro-  
9 priated to the Secretary for all activities under this sub-  
10 title other than activities for which funds are authorized  
11 under subsection (b)—

12 (1) for fiscal year 2004, \$35,000,000;

13 (2) for each of fiscal years 2005 through 2008,  
14 \$150,000,000; and

15 (3) for fiscal years after 2008, such sums as  
16 are necessary.

17 (b) CONSTRUCTION.—There are authorized to be ap-  
18 propriated to the Secretary for all Project-related con-  
19 struction activities, to remain available until expended,  
20 \$500,000,000.】

21 **Subtitle \_\_\_\_—Nuclear Security**

22 **SEC. \_\_\_\_51. NUCLEAR FACILITY THREATS.**

23 (a) STUDY.—The President, in consultation with the  
24 Nuclear Regulatory Commission (referred to in this sub-  
25 title as the “Commission”) and other appropriate Federal,

1 State, and local agencies and private entities, shall con-  
2 duct a study to identify the types of threats that pose an  
3 appreciable risk to the security of the various classes of  
4 facilities licensed by the Commission under the Atomic  
5 Energy Act of 1954 (42 U.S.C. 2011 et seq.). Such study  
6 shall take into account, but not be limited to—

- 7 (1) the events of September 11, 2001;
- 8 (2) an assessment of physical, cyber, bio-  
9 chemical, and other terrorist threats;
- 10 (3) the potential for attack on facilities by mul-  
11 tiple coordinated teams of a large number of individ-  
12 uals;
- 13 (4) the potential for assistance in an attack  
14 from several persons employed at the facility;
- 15 (5) the potential for suicide attacks;
- 16 (6) the potential for water-based and air-based  
17 threats;
- 18 (7) the potential use of explosive devices of con-  
19 siderable size and other modern weaponry;
- 20 (8) the potential for attacks by persons with a  
21 sophisticated knowledge of facility operations;
- 22 (9) the potential for fires, especially fires of  
23 long duration;

1           (10) the potential for attacks on spent fuel  
2           shipments by multiple coordinated teams of a large  
3           number of individuals; and

4           (11) the adequacy of planning to protect the  
5           public health and safety at and around nuclear fa-  
6           cilities, as appropriate, in the event of a terrorist at-  
7           tack against a nuclear facility.

8           (b) SUMMARY AND CLASSIFICATION REPORT.—Not  
9           later than 180 days after the date of the enactment of  
10          this Act, the President shall transmit to the Congress and  
11          the Commission a report—

12           (1) summarizing the types of threats identified  
13           under subsection (a); and

14           (2) classifying each type of threat identified  
15           under subsection (a), in accordance with existing  
16           laws and regulations, as either—

17           (A) involving attacks and destructive acts,  
18           including sabotage, directed against the facility  
19           by an enemy of the United States, whether a  
20           foreign government or other person, or other-  
21           wise falling under the responsibilities of the  
22           Federal Government; or

23           (B) involving the type of risks that Com-  
24           mission licensees should be responsible for  
25           guarding against.

1       (c) FEDERAL ACTION REPORT.—Not later than 90  
2 days after the date on which a report is transmitted under  
3 subsection (b), the President shall transmit to the Con-  
4 gress a report on actions taken, or to be taken, to address  
5 the types of threats identified under subsection (b)(2)(A),  
6 including identification of the Federal, State, and local  
7 agencies responsible for carrying out the obligations and  
8 authorities of the United States. Such report may include  
9 a classified annex, as appropriate.

10       (d) REGULATIONS.—Not later than 180 days after  
11 the date on which a report is transmitted under subsection  
12 (b), the Commission shall by regulation revise the design  
13 basis threats promulgated before the date of enactment  
14 of this section as the Commission determines appropriate  
15 based on the summary and classification report.

16       (e) PHYSICAL SECURITY PROGRAM.—The Commis-  
17 sion shall establish an operational safeguards response  
18 evaluation program that ensures that the physical protec-  
19 tion capability and operational safeguards response for  
20 sensitive nuclear facilities, as determined by the Commis-  
21 sion consistent with the protection of public health and  
22 the common defense and security, shall be tested periodi-  
23 cally through Commission approved or designed, observed,  
24 and evaluated force-on-force exercises to determine wheth-  
25 er the ability to defeat the design basis threat is being



1 maintained. For purposes of this subsection, the term  
2 “sensitive nuclear facilities” includes at a minimum com-  
3 mercial nuclear power plants, including associated spent  
4 fuel storage facilities, spent fuel storage pools and dry  
5 cask storage at closed reactors, independent spent fuel  
6 storage facilities and geologic repository operations areas,  
7 category I fuel cycle facilities, and gaseous diffusion  
8 plants.

9 (f) CONTROL OF INFORMATION.—In carrying out this  
10 section, the President and the Commission shall control  
11 the dissemination of restricted data, safeguards informa-  
12 tion, and other classified national security information in  
13 a manner so as to ensure the common defense and secu-  
14 rity, consistent with chapter 12 of the Atomic Energy Act  
15 of 1954 (42 U.S.C. 2161 et seq.).

16 (g) FEDERAL SECURITY COORDINATORS.—

17 (1) REGIONAL OFFICES.—Not later than 18  
18 months after the date of enactment of this Act, the  
19 Commission shall assign a Federal security coordi-  
20 nator, under the employment of the Commission, to  
21 each region of the Commission.

22 (2) RESPONSIBILITIES.—The Federal security  
23 coordinator shall be responsible for—

24 (A) communicating with the Commission  
25 and other Federal, State, and local authorities

1           concerning threats, including threats against  
2           such classes of facilities as the Commission de-  
3           termines to be appropriate;

4                 (B) ensuring that such classes of facilities  
5           as the Commission determines to be appropriate  
6           maintain security consistent with the security  
7           plan in accordance with the appropriate threat  
8           level; and

9                 (C) assisting in the coordination of secu-  
10          rity measures among the private security forces  
11          at such classes of facilities as the Commission  
12          determines to be appropriate and Federal,  
13          State, and local authorities, as appropriate.

14          (h) TRAINING PROGRAM.—The President shall estab-  
15          lish a program to provide technical assistance and training  
16          to Federal agencies, the National Guard, and State and  
17          local law enforcement and emergency response agencies in  
18          responding to threats against a designated nuclear facility.

19   **SEC. \_\_\_\_52. FINGERPRINTING FOR CRIMINAL HISTORY**  
20                   **RECORD CHECKS.**

21          (a) IN GENERAL.—Subsection a. of section 149 of  
22          the Atomic Energy Act of 1954 (42 U.S.C. 2169(a)) is  
23          amended—

1           (1) by striking “a. The Nuclear” and all that  
2 follows through “section 147.” and inserting the fol-  
3 lowing:

4           “a. IN GENERAL.—

5                 “(1) REQUIREMENTS.—

6                     “(A) IN GENERAL.— The Commission  
7 shall require each individual or entity—

8                             “(i) that is licensed or certified to en-  
9 gage in an activity subject to regulation by  
10 the Commission;

11                            “(ii) that has filed an application for  
12 a license or certificate to engage in an ac-  
13 tivity subject to regulation by the Commis-  
14 sion; or

15                            “(iii) that has notified the Commis-  
16 sion, in writing, of an intent to file an ap-  
17 plication for licensing, certification, permit-  
18 ting, or approval of a product or activity  
19 subject to regulation by the Commission,

20 to fingerprint each individual described in sub-  
21 paragraph (B) before the individual is per-  
22 mitted unescorted access or access, whichever is  
23 applicable, as described in subparagraph (B).

1                   “(B) INDIVIDUALS REQUIRED TO BE  
2                   FINGERPRINTED.—The Commission shall re-  
3                   quire to be fingerprinted each individual who—

4                   “(i) is permitted unescorted access  
5                   to—

6                   “(I) a utilization facility; or

7                   “(II) radioactive material or  
8                   other property subject to regulation  
9                   by the Commission that the Commis-  
10                  sion determines to be of such signifi-  
11                  cance to the public health and safety  
12                  or the common defense and security  
13                  as to warrant fingerprinting and back-  
14                  ground checks; or

15                  “(ii) is permitted access to safeguards  
16                  information under section 147.

17                  The Commission may require additional classes  
18                  of individuals to be fingerprinted under this  
19                  section, upon a written determination that such  
20                  fingerprinting is required to protect the public  
21                  health and safety or the common defense and  
22                  security.”;

23                  (2) by striking “All fingerprints obtained by a  
24                  licensee or applicant as required in the preceding  
25                  sentence” and inserting the following:

1           “(2) SUBMISSION TO THE ATTORNEY GEN-  
2           ERAL.—All fingerprints obtained by an individual or  
3           entity as required in paragraph (1)”;

4           (3) by striking “The costs of any identification  
5           and records check conducted pursuant to the pre-  
6           ceding sentence shall be paid by the licensee or ap-  
7           plicant.” and inserting the following:

8           “(3) COSTS.—The costs of any identification  
9           and records check conducted pursuant to paragraph  
10          (1) shall be paid by the individual or entity required  
11          to conduct the fingerprinting under paragraph  
12          (1)(A).”; and

13          (4) by striking “Notwithstanding any other pro-  
14          vision of law, the Attorney General may provide all  
15          the results of the search to the Commission, and, in  
16          accordance with regulations prescribed under this  
17          section, the Commission may provide such results to  
18          licensee or applicant submitting such fingerprints.”  
19          and inserting the following:

20          “(4) PROVISION TO INDIVIDUAL OR ENTITY RE-  
21          QUIRED TO CONDUCT FINGERPRINTING.—Notwith-  
22          standing any other provision of law, the Attorney  
23          General may provide all the results of the search to  
24          the Commission, and, in accordance with regulations  
25          prescribed under this section, the Commission may

1 provide such results to the individual or entity re-  
2 quired to conduct the fingerprinting under para-  
3 graph (1)(A).”.

4 (b) ADMINISTRATION.—Subsection c. of section 149  
5 of the Atomic Energy Act of 1954 (42 U.S.C. 2169(c))  
6 is amended—

7 (1) by striking “, subject to public notice and  
8 comment, regulations—” and inserting “require-  
9 ments—”; and

10 (2) by striking, in paragraph (2)(B),  
11 “unescorted access to the facility of a licensee or ap-  
12 plicant” and inserting “unescorted access to a utili-  
13 zation facility, radioactive material, or other prop-  
14 erty described in subsection a.(1)(B)”.

15 (c) BIOMETRIC METHODS.—Subsection d. of section  
16 149 of the Atomic Energy Act of 1954 (42 U.S.C.  
17 2169(d)) is redesignated as subsection e., and the fol-  
18 lowing is inserted after subsection c.:

19 “d. USE OF OTHER BIOMETRIC METHODS.—Any re-  
20 quirement for a person to conduct fingerprinting under  
21 this section may be satisfied by using any other biometric  
22 method for identification approved for use by the Attorney  
23 General.”.

1 **[SEC. \_\_\_\_53. CARRYING OF FIREARMS BY LICENSEE EM-**  
2 **PLOYEES.**

3 Section 161 k. of the Atomic Energy Act of 1954 (42  
4 U.S.C. 2201(k)) is amended to read as follows:

5 “k. authorize such of its members, officers, and em-  
6 ployees as it deems necessary in the interest of the com-  
7 mon defense and security to carry firearms while in the  
8 discharge of their official duties. The Commission may  
9 also authorize—

10 “(1) such of those employees of its contractors  
11 and subcontractors (at any tier) engaged in the pro-  
12 tection of property under the jurisdiction of the  
13 United States located at facilities owned by or con-  
14 tracted to the United States or being transported to  
15 or from such facilities as it deems necessary in the  
16 interests of the common defense and security; and

17 “(2) such of those employees of persons licensed  
18 or certified by the Commission (including employees  
19 of contractors of licensees or certificate holders) en-  
20 gaged in the protection of property of (A) facilities  
21 owned or operated by a Commission licensee or cer-  
22 tificate holder that are designated by the Commis-  
23 sion, or (B) property of significance to the common  
24 defense and security located at facilities owned or  
25 operated by a Commission licensee or certificate

1 holder or being transported to or from such facili-  
2 ties,  
3 to carry firearms while in the discharge of their official  
4 duties. A person authorized to carry firearms under this  
5 subsection may, while in the performance of, and in con-  
6 nection with, official duties, make arrests without warrant  
7 for any offense against the United States committed in  
8 that person's presence or for any felony cognizable under  
9 the laws of the United States if that person has reasonable  
10 grounds to believe that the individual to be arrested has  
11 committed or is committing such felony. An employee of  
12 a contractor or subcontractor or of a Commission licensee  
13 or certificate holder (or a contractor of a licensee or cer-  
14 tificate holder) authorized to carry firearms under this  
15 subsection may make such arrests only when the indi-  
16 vidual to be arrested is within, or in direct flight from,  
17 the area of such offense. A person granted authority to  
18 make arrests by this subsection may exercise that author-  
19 ity only in the enforcement of laws regarding the property  
20 of the United States in the custody of the Department  
21 of Energy, the Nuclear Regulatory Commission, or a con-  
22 tractor of the Department of Energy or Nuclear Regu-  
23 latory Commission or of a licensee or certificate holder of  
24 the Commission, laws applicable to facilities owned or op-  
25 erated by a Commission licensee or certificate holder that



1 are designated by the Commission pursuant to this sub-  
2 section and property of significance to the common de-  
3 fense and security that is in the custody of a licensee or  
4 certificate holder or a contractor of a licensee or certificate  
5 holder of the Commission, or any provision of this Act that  
6 may subject an offender to a fine, imprisonment, or both.  
7 The arrest authority conferred by this subsection is in ad-  
8 dition to any arrest authority under other laws. The Sec-  
9 retary and the Commission, with the approval of the At-  
10 torney General, shall issue guidelines to implement this  
11 subsection;”.]

12 **SEC. \_\_\_\_54. UNAUTHORIZED INTRODUCTION OF DAN-**  
13 **GEROUS WEAPONS.**

14 Section 229 a. of the Atomic Energy Act of 1954 (42  
15 U.S.C. 2278a(a)) is amended in the first sentence by in-  
16 serting “or subject to the licensing authority of the Com-  
17 mission or to certification by the Commission under this  
18 Act or any other Act” before the period at the end.

19 **SEC. \_\_\_\_55. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.**

20 Section 236 a. of the Atomic Energy Act of 1954 (42  
21 U.S.C. 2284(a)) is amended—

22 (1) in the first sentence, by striking “or who in-  
23 tentiously and willfully attempts” and inserting “or  
24 who attempts or conspires”;

1           (2) in paragraph (2), by striking “storage facil-  
2       ity” and inserting “storage, treatment, or disposal  
3       facility”;

4           (3) in paragraph (3)—

5                (A) by striking “such a utilization facility”  
6       and inserting “a utilization facility licensed  
7       under this Act”; and

8                (B) by striking “or” at the end;

9           (4) in paragraph (4)—

10               (A) by striking “facility licensed” and in-  
11       serting “, uranium conversion, or nuclear fuel  
12       fabrication facility licensed or certified”; and

13               (B) by striking the period at the end and  
14       inserting a semicolon; and

15           (5) by inserting after paragraph (4) the fol-  
16       lowing:

17               “(5) any production, utilization, waste storage,  
18       waste treatment, waste disposal, uranium enrich-  
19       ment, uranium conversion, or nuclear fuel fabrica-  
20       tion facility subject to licensing or certification  
21       under this Act during construction of the facility, if  
22       the destruction or damage caused or attempted to be  
23       caused could adversely affect public health and safe-  
24       ty during the operation of the facility;

1           “(6) any primary facility or backup facility  
2           from which a radiological emergency preparedness  
3           alert and warning system is activated; or

4           “(7) any radioactive material or other property  
5           subject to regulation by the Nuclear Regulatory  
6           Commission that, before the date of the offense, the  
7           Nuclear Regulatory Commission determines, by  
8           order or regulation published in the Federal Reg-  
9           ister, is of significance to the public health and safe-  
10          ty or to common defense and security;”.

11 **SEC. \_\_\_\_ 56. AUTHORIZATION OF APPROPRIATIONS.**

12          (a) IN GENERAL.—There are authorized to be appro-  
13          priated such sums as are necessary to carry out the  
14          amendments made by this subtitle.

15          (b) AGGREGATE AMOUNT OF CHARGES.—Section  
16          6101(c)(2)(A) of the Omnibus Budget Reconciliation Act  
17          of 1990 (42 U.S.C. 2214(c)(2)(A)) is amended—

18                 (1) in clause (i), by striking “and” at the end;

19                 (2) in clause (ii), by striking the period at the  
20          end and inserting “; and” and

21                 (3) by adding at the end the following:

22                         “(iii) amounts appropriated to the  
23                         Commission for homeland security activi-  
24                         ties of the Commission for the fiscal year,  
25                         except for the costs of fingerprinting and

1 background checks required by section 149  
2 of the Atomic Energy Act of 1954 (42  
3 U.S.C. 2169) and the costs of conducting  
4 security inspections.”.